

No. 23-90003

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,

Plaintiff-Respondent,

And

VINCENT JACKSON,

Plaintiff-Intervenor-Respondent,

v.

DOLGENCORP, L.L.C.,

Defendant-Petitioner.

On Petition for Appeal from the United States District Court
for the Northern District of Alabama, No. 2:17-cv-1649
Hon. Madeline Hughes Haikala, United States District Judge

**UNOPPOSED MOTION FOR EXTENSION OF TIME TO
FILE A RESPONSE IN OPPOSITION TO THE
PETITION FOR INTERLOCUTORY APPEAL**

GWENDOLYN YOUNG REAMS
Acting General Counsel

JENNIFER S. GOLDSTEIN
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ANNE NOEL OCCHIALINO
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Certificate of Interested Persons
and Corporate Disclosure Statement

Pursuant to Eleventh Circuit Rules 26.1-1(a)(1), Plaintiff-Respondent the Equal Employment Opportunity Commission (“EEOC”) hereby submits the following Certificate of Interested Persons and Corporate Disclosure Statement. Pursuant to Federal Rule of Appellate Procedure 26.1 and Eleventh Circuit Rule 26.1-2(a), the undersigned counsel hereby certifies that, in addition to those identified in the Certificate previously filed by the Defendant-Petitioner, the following persons may have an interest in the outcome of this case:

Jennifer S. Goldstein (Associate General Counsel, EEOC)

Christopher Lage (Deputy General Counsel, EEOC)

Anne Noel Occhialino (Acting Assistant General Counsel, EEOC)

Gwendolyn Young Reams (Acting General Counsel, EEOC)

James M. Tucker (Attorney, EEOC)

Pursuant to Federal Rule of Appellate Procedure 26.1, the EEOC, as a government entity, is not required to file a corporate disclosure statement. The EEOC is not aware of any publicly traded corporations or companies that have an interest in the outcome of this case or appeal, other than those identified in the Certificate previously filed by the Defendant-Petitioner.

s/ James M. Tucker
JAMES M. TUCKER
Attorney

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UNOPPOSED MOTION FOR EXTENSION OF TIME TO FILE A RESPONSE
IN OPPOSITION TO THE PETITION FOR INTERLOCUTORY APPEAL

Pursuant to Federal Rule of Appellate Procedure 27 and Eleventh Circuit Rule 27-1, Plaintiff-Respondent the Equal Employment Opportunity Commission (“Commission”) respectfully moves this Court for a seven-day extension of time, until January 30, 2023, in which to respond to the petition of Defendant-Petitioner Dolgencorp, L.L.C.’s (“Dolgencorp”) petition for interlocutory appeal. In support of this unopposed motion, the undersigned states the following:

1. The undersigned is the attorney primarily responsible for the preparation of the Commission’s answer in opposition to Dolgencorp’s petition for permission for interlocutory appeal to this Court.

2. On July 26, 2022, the district court in the underlying action denied Dolgencorp’s motion for summary judgment. Dolgencorp subsequently filed a motion asking the district court to certify, pursuant to 28 U.S.C. § 1292(b), two questions for interlocutory appeal to this Court.

3. On January 3, 2023, the district court granted in part Dolgencorp’s motion, certifying one of the requested questions for interlocutory appeal to this Court.

4. As a result of the date the district court entered its ruling on Dolgencorp's motion, and by operation of the Federal Rules of Appellate Procedures' rules for computing the filing deadlines for such petitions, Dolgencorp's petition to this Court was due for filing on Friday, January 13, 2023. And Dolgencorp timely filed its petition on that date.

5. Federal Rule of Appellate Procedure 5(b)(2) provides that a responding party, such as the Commission here, may file an answer in opposition to a petition for interlocutory appeal within ten days of the date the petitioner files its petition with the court of appeals. As Dolgencorp filed its petition with this Court on January 13, 2023, the Commission's answer in opposition is presently due on January 23, 2023.

6. For the Commission to prepare and file its response in opposition to the petition by January 23, 2023, will impose a substantial hardship on the Commission. The undersigned is responsible for all appellate-level activity in this case, including preparing the Commission's response in opposition to Dolgencorp's petition. However, the undersigned did not participate in the proceedings before the district court, and has made no prior appearance in court in this case.

The certified question involves complex issues of law, and preparing the Commission's response in opposition to the petition will require extensive drafting and research by the undersigned, as well as multiple levels of internal review by Commission supervisors and other officials. Additionally, one such reviewing official –the Commission's Associate General Counsel for Appellate Litigation Services—is unavailable until January 23, 2023, due to nonrefundable, previously planned travel for a family vacation.

7. Given the aforementioned circumstances, even with the undersigned exercising due diligence in his efforts to prepare the Commission's response in opposition, the Commission will endure substantial hardship if it is required to prepare and file its answer in opposition by the current due date of January 23, 2023.

8. In light of the above, the Commission respectfully requests that this Court extend the time for the filing of the Commission's response in opposition to the petition for interlocutory appeal by seven days, until January 30, 2023. This minimal additional time is necessary for the undersigned counsel to adequately familiarize himself with this case and prepare the Commission's response in opposition, and to enable

Commission officials sufficient time for review and approval of the response in opposition.

9. Counsel for Dolgencorp has informed the undersigned counsel that he does not oppose this motion.

For the foregoing reasons, the Commission respectfully requests that this Court grant the Commission's motion for a seven-day extension of time, until January 30, 2023, for the Commission to file its response in opposition to Dolgencorp's petition for interlocutory appeal.

Respectfully submitted,

GWENDOLYN YOUNG REAMS
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Associate General Counsel

ANNE NOEL OCCHIALINO
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s/ James M. Tucker
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Certificate of Compliance

I hereby certify that the foregoing document complies with the type-volume requirements set forth in Federal Rule of Appellate Procedure 27(d)(2)(A). This document contains 629 words, from the Introduction through the Conclusion, as determined by the Microsoft Word 360 word-processing program, with 14-point proportionally spaced type for text and 14-point proportionally spaced type for footnotes.

s/ James M. Tucker
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Certificate of Service

I hereby certify that on this 17th day of January, 2023, I filed the foregoing document electronically in PDF format through the Court's CM/ECF system. I further certify that on this day, service of this document on counsel for Defendant-Petitioner and Plaintiff-Intervenor-Respondent was accomplished via the Court's CM/ECF system.

s/ James M. Tucker
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Attorney

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